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UNITED STATES PATENT AND TRADEMARK OFFICE

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10/035,700	10/29/2001	Christopher William Preist	30010014-2	4046

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EXAMINER
POINVIL, FRANTZY

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 April 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Applicant's arguments filed 4/5/2007 have been fully considered but they are not

persuasive.

2.   Applicant's representative has again amended the independent claims to recite

"providing a framework for determining an outcome in the negotiation, thereby allowing an

entity to select a t least one of a plurality of negotiation types to establish the framework" and

argues that in Thiessen there are not multiple frameworks available to determine a solution for a

problem.

In response, the Examiner disagrees. In the system of Thiessen, a party

provides various preferences and rules to determine a solution to a problem. See column 6 of

Thiessen. Thiessen states that:

"The analysis of party preferences is based on an aggregation of additive satisfaction (utility) functions for

each individual issue. These satisfaction functions describe each party's relative preferences for various outcomes of

each individual issue in conflict relative to other possible outcomes for that issue. They do not provide information

on the total relative satisfaction derived by any party from any combination of issue values, nor do they provide any

information comparing overall satisfactions of multiple parties. FIG. 3 illustrates one possible display screen 21 on

the graphical interface 14 which allows a party named Party Blue to define its relative additional satisfaction

function labeled SF for a continuously valued example issue defined as "minimum flow for irrigation (cms)". ".

Thus, in Thiessen there includes a plurality of types of negotiations and users may select

or provide preferences to be used as a framework to determine a solution to a problem.

The prior rejection is repeated below.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public
use or on sale in this country, more than one year prior to the date of application for patent in the United
States.

Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by

Thiessen (US Patent No. 5,495,4112).

As per claims 1, 12, 18, 19 and 23, Thiessen discloses the invention as claimed. Thiessen

discloses a computer-based method and apparatus for enabling negotiations between one or more

parties. The system and method comprise a computer network having a plurality of nodes; a

computer node having a processor being arranged to define the negotiation between the entities

with a set of negotiation activities (see figure column 5, lines 25-40); wherein the computer node

is operable to implement a plurality of negotiation rules, each rule set constraining the set of

negotiations activities to a specific negotiation type (column 6, lines 2-26) thereby allowing an

entity to select at least one of a plurality of negotiation types.

As per claim 2, Thiessen teaches a plurality of nodes are arranged to define the

negotiation between the entities (figure 1) with a set of negotiation activities (columns 5-6)

wherein each of the plurality of nodes are operable to implement a plurality of negotiation rule

sets (column 6, line 61 to column 7, line 46.

As per claims 3-5, 13-15 Thiessen teaches the at least one of the entities is a software

negotiation agent, the computer node incorporates the software negotiation agent and the at least

one of the entities is a user. See columns 6-7 and figure 1.

As per claim 6, 16, Thiessen discloses the at least one of the entities is a negotiation host

(system 20) and at least another of the entities is a negotiation participant. See figure 1 of

Thiessen.

As per claim 7, 17 Thiessen teaches wherein at least on of the rule sets constrains the

negotiation activities ton an auction and at least another rule set constrains the negotiation

activities to a one on one negotiation. See column 11, line 25-52.

As per claims 8-11 and 20-22 and 24-25, see column 11, line 54 to column 15, line 29.

Remarks

4.   Applicant's representative argues that:

"Accordingly, Thiessen does not match compatible proposals. Rather, Thiessen searches for

alternatives to party proposals, establishes a common base alternative, and then compares a

potential solution with the common base alternative (which is not a proposal submitted by a

participant) by considering how much satisfaction the solution brings to one or more

parties. Once a common base has been established, an improved alternative solution is sought

that will improve upon the common base alternative. See col. 3, lines 11-60. Moreover, in

Thiessen, ICANS ".qenerates an agreement that optimizes both the individual and overall

benefit to the parties." Col. 17, lines 9-11 (Emphasis added). As such, Thiessen does not form

an agreement by matching compatible proposals".

Applicant then states that as a result, Thiessen does not teach or suggest at least all of the

claimed features of claims 1, 12, 18 and 23. Therefore, claims 1, 12, 18 and 23 are not

anticipated by Thiessen, and the rejection should be withdrawn for at least this reason alone.

In response, the Examiner disagrees. In the system of Thiessen, parties are encouraged to make proposal and the system validates proposals submitted by all parties. The central computer matches compatible proposals in accordance with rules defined in the selected negotiation rule set and forms an agreement. See columns 3-4 of Thiessen. The system considers various negotiation rules wherein each rule has constraints based on set of activities and negotiation types.

The prior rejection is repeated below.

5.   Applicant's representative has amended the independent claims and argued that Thiessen fails to teach or suggest the added limitations of:

"wherein the computer node is operable to implement a plurality of negotiation rule sets

defining a plurality of market mechanisms,...the selected negotiation rule set being used to

validate proposals submitted by participants in the negotiation, the computer node matching

compatible proposals in accordance with rules defined in the selected negotiation rule set and

forming an agreement as found in claims 1, 12 and 18.

"wherein a number of different market mechanisms are definable by different

arrangements of negotiation activities, the negotiation activities include a proposal validator for

validating a proposal, received from an entity, with an agreement template, a negotiation locale

for providing a validated proposal to a proposal compatibility checker for comparing proposals

received from the negotiation locale to determine compatibility of received proposals to establish

an agreement" as found in claim 19 and

"wherein a number of different market mechanisms are definable by different

arrangements of negotiation activities, the negotiation activities include a proposal validator for

validating a proposal, received from an entity, with an agreement template, a negotiation locale

for providing a validated proposal to a proposal compatibility checker fro comparing proposals

received from the negotiation locale to determine compatibility of received proposals to establish

an agreement".

In response, the Examiner disagrees with the applicant's assertion. Thiessen is directed

to a computer-based method and apparatus for interactive computer-assisted negotiations.

Thiessen teaches a plurality of participants, each using a computer for submitting proposals and

preferences to a computer system embodied as an Interactive Computer-Assisted Negotiation

Process Support System (ICANS) for reaching an agreement or for assisting the different

participants in real time toward achieving an optimal mutually satisfactory agreement in

dynamic, multi-issue, multi-party negotiations.

Thiessen states on column 3, lines 29-51:

"ICANS first encourages parties to make a proposal or identify at least one alternative solution to the problem that their party would find acceptable. ICANS then uses the preference information provided by each party to search for equivalent alternatives to party proposals by using linear programming to solve an optimization problem for which the objective is to insure no loss in satisfaction for any party while minimizing the maximum gain achieved by any party. If all parties accept the alternative generated by ICANS as a tentative agreement, that alternative is known as a common base alternative (common base for short). The purpose of establishing the common base is to facilitate the negotiations by converting inconsistent proposals offered by each party into what is for everyone an equivalent one from which joint negotiations can proceed. If no alternative equivalent to party proposals exists, the same optimization process can be used to generate a compromise to party proposals that would represent equivalent losses to each party. This compromise, or in fact any alternative created by ICANS or any other party, can also be considered as a candidate for the common base. In some cases, the parties may all agree to a common base at the outset, thereby bypassing the need for ICANS to generate it".

Thiessen further states on column 4, lines 13-26 that:

"Before parties can enter information regarding their preferences on the outcome of a particular issue, they each must enter a bargaining range that defines the range of acceptable outcomes for that issue from least desirable to most desirable. Within this range, ICANS generates a satisfaction function that defines a party's relative satisfaction as a function of the issue's outcome. By default, the relative satisfaction function for each issue is assumed to be linear between the extremes of the range of values specified for that issue by the party, however, the party has the option of changing that function to more accurately describe their relative satisfaction function by picking points on the graphical interface".

Thiessen then states on column 4, lines 54-63 that:

"This information can then be transmitted to a central computer system at a neutral site which processes all of the preference data from each of the parties, uses this information to generate the equivalent alternative, and transmits the results back to each of the parties. If the parties agree, the equivalent alternative proposal is used as the common base alternative. The central computer system will then generate the improved alternative along the efficiency frontier, and once again, transmit the results back to the parties".

Applicant's representative then argues that Thiessen does not seem to be directed towards

implementing a plurality of negotiation rule sets defining a plurality of market mechanisms.

In response, providing an agreement including different parties having different interests

and providing different proposals relating to a negotiation process in purchasing one or more

items or providing one or more services as noted in Thiessen is similar to implementing a

plurality of negotiation rule sets defining a plurality of market mechanisms since the computer

system of Thiessen must compare and match different proposals set by all parties before arriving

at a mutual and dynamic agreement.

6.   Thus, from these teachings, it is noted that the added limitations are taught by

Thiessen as noted above.

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Conclusion

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-

6797. The examiner can normally be reached on Monday-Thursday from 7:00AM to

5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fisher can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Frantzy Poinvil
Primary Examiner
Art Unit 3692

FP
June 12, 2007